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AUG 20 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

92-266

August 4, 1993

Respectfully referred to

Federal Communications Commission

for such consideration as the communication herewith submitted may warrant, and for a report thereon, in duplicate to accompany return of enclosure.

By direction of

[Signature]
DON NICKLES
U.S. Senator

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HALCYON COMMUNICATIONS, INC.

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AUG 20 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 20, 1993

Senator Don Nickles
713 Hart SOB
Washington, DC 20510-3602

Dear Don:

Once again, small business and the consumers are the losers as a result of Congress fixing something that wasn't broken.

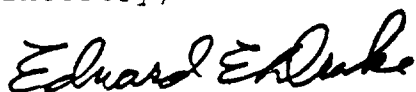
We are a small company, with a long-time philosophy of trying to bring reasonably-priced cable television to small suburban and rural areas. We have done this by purchasing and "clustering" such systems into efficient operating units.

The Cable Consumer Protection Act of '92 has understandably caused many small individual operators to want to get out of the business. We would like to buy some of these systems, to ensure that the subscribers get better service and new technology, to keep pace with their urban neighbors.

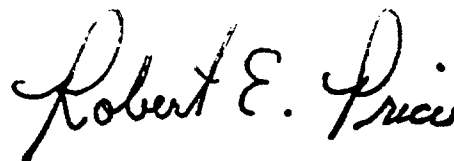
Unfortunately, the excessively complex and restrictive rule-making of the FCC implementing the '92 act has resulted in a virtual standstill in expansion of small, efficient companies such as ours.

Anything you can do to either exempt systems under 1,000 subscribers or otherwise relax burdensome regulation will be appreciated.

Sincerely,



Edward E. Drake
Chairman



Robert E. Price
President

attachments

cc: Rob Marshall (w/attachments)

The hidden poison of the Cable Act

On June 21, First Chicago and 17 other major banks wrote to the Federal Communications Commission to express our concerns as to the likely impact of the Cable Act of 1992 on what has up until now been an orderly flow of highly leveraged growth capital to what has historically been a vibrant growth industry.

As a lender to the industry at a bank that has specialized in lending to cable for over 20 years, ELECTRONIC MEDIA has asked me to share my views.

The cable television industry struggled for some 30 years to establish itself. Once it was deregulated in 1986, it became enormously successful for one simple reason: The consumer loves it.

About 56 million households pay, on average, \$28 every month for cable.

Most of these choose to disconnect their roof-top antennas and hook up and pay for cable's better signal and its programming diversity.

If the price rises too high or the quality deteriorates, the consumer can always terminate the service and go back to receiving by air.

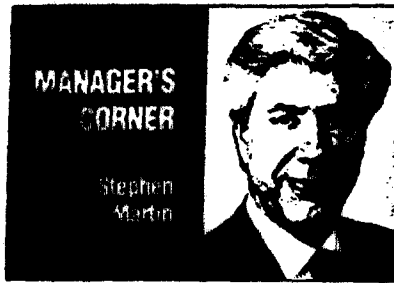
This American success story has been fueled by a steady and ready supply of debt, made available on a long-term and highly leveraged basis.

It is very unusual for banks to make loans for eight years or more at cash flow multiples of six times or more, but we have readily done so for cable, and industry loan losses have been almost nonexistent.

First Chicago, historically one of the top three lenders to cable, has never lost a penny on a cable loan.

The banking industry has managed this enviable feat by underwriting the stability and predictability of the cable industry's cash flow.

Predictable cash flow growth and interest rates (made possible by interest rate swaps and caps) enable lenders to determine with a high degree of accuracy the leverage that can be paid back within the final maturity with which the lender is comfortable.



The algorithm is simple, but fragile. Disrupt one of its components and it breaks down.

Enter the Cable Act, which sweeps the key component—predictability and stability of cash flow—away.

The act imposes heavy government regulations that will degrade the product (through its reduction of the cash flows that fund capital expenditures and its disincentives to new programming ventures), increase its cost base (through heavy regulatory additions to operating expenses as well as increases in programming costs), and restrict its revenues (price controls and rate rollbacks).

The confluence of all these factors will have a restrictive impact on the continued flow of capital that has been the industry's life blood.

With more uncertainty, tenors (length of the loan) are likely to shorten from eight years; with less stable and predictable growth, leverage will drop.

Unfortunately, this occurs at a time when the industry needs to invest more capital for longer periods to deliver the broadband information highway of the future.

For existing loans, once operators are finally able to determine the degree to which cash flows will drop, new projections will indicate numerous covenant violations and longer payback periods.

Amending the terms of each loan to change covenants and maturities will

be costly and cumbersome.

Surely that is not what the Congress and administration want: Management attention, cash flow (which should be flowing to investments in new technologies), plant upgrades and line extensions—all of which would create jobs—will now be diverted to amending existing credit agreements.

What is the likely impact of the act on new cable loans?

There haven't been any!

Activity stopped April Fools' Day, when the FCC issued its Report and Order, followed by its tortuously numbing 550-page Guide to Determining Cable TV Rates.

Deals stopped in midstream. No one will buy, sell, build or rebuild until they can figure out the cash flows involved.

Eventually, operators will sort out the cumbersome FCC Rate Rule-making, and try to strike deals. They will face both a micro and a macro effect.

With lower cash flow growth and higher uncertainty, less debt capital for shorter periods at a higher cost is likely: the micro effect.

Heightened regulatory pressures could reduce banks' cable industry limits as well: the macro effect.

For all of these reasons, I believe that the Cable Act could mean significantly less money to finance industry capital requirements, which include new programming and new technologies.

Any problems with the cable industry would surely have been better addressed by the marketplace, and not the government.

If the marketplace was or is imperfect, it would be better to fix it by introducing more competition, not by implementing costly, cumbersome, constricting legislation. #

Stephen Martin is vice president and senior corporate banker in the communications lending division of The First National Bank of Chicago, Chicago.

ITVS launches 1st public TV show

By DIANE JOY MOCA
Staff reporter

LOS ANGELES—Following a 10-year struggle, a group of film and video makers who have been attempting to produce programming for public television stations while bypassing PBS has launched its first show.

"Greetings From Out Here" marks the first national satellite feed to public television stations from Independent Television Service, a new St. Paul, Minn.-based program supplier funded by the Cor-

attractive to corporate sponsors or programs that will bring pledges to public television stations, but to bring risks," says Mr. Schott.

"Public television is dominated by lots of programming that many people argue is very safe."

However, ITVS will use PBS as a distribution service for some of its projects, including this week's "For Better or for Worse," which will air as an episode in PBS's popular "P.O.V." series.

ITVS receives roughly \$6 million of the approximate \$350 million per year that

Congress allots to public television.

ITVS was created in 1988 after five years of arduous lobbying on Capitol Hill. Funding from the CPB finally came through a couple of years later.

In 1991, ITVS sifted through thousands of proposals to select the first 25 programs it would fund. Last month the first one of those programs was completed and aired.

The project, "Greetings From Out Here," about gay culture in the South, is now available to public stations free of

(Continued on Page 52)

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FORUM

Why Not Regulate French Fries?

By JOHN TUPPER

After explaining the new FCC rules regarding regulation of cable television rates to my daughter, Chloe, she posed an interesting question. She would like to know why rate regulation does not also apply to the cost of McDonald's French fries?

I explained to Chloe that the local cable television system is the only provider of its unique services. "Wait a minute, Dad," Chloe said. "We used to have an antenna from which we got 10 channels, plus I go to the video store twice a week." She reminded me that McDonald's is the only place you can get McDonald's French fries and no other restaurant comes close to serving fries which taste like McDonald's.

Further, I explained that since cable television systems use the public rights-of-way to string its cables around town, the government feels it has the right to regulate cable operators' behavior. Chloe pointed out the McDonald's couldn't operate without its customers using the public streets and sidewalks and they couldn't make their food without using the public water system and the public sewer system.

"Yes," I said, "But cable needs more competition." Chloe said "Wouldn't more competition for cable be attracted by higher not lower

prices? I don't think you'd better invest in that DBS or MMDS thing you were talking about if cable rates are going down."

"That may be good advice," I said, "but the government feels that the public has to have cable television, that it is a necessity." Chloe asked, "Does everybody have cable?"

"No," I said, "only about 60 percent of the households subscribe to cable." Chloe reminded me that everybody needs food and in particular she "needs to have McDonald's French fries."

"You just don't get it. The government wants to ensure that everyone gets access to cable services at a low price; it's in the public interest," I said. Chloe said, "Mom says that in a book called the *Plug-in Drug*, it says that television watching breaks down family communications and retards kids' development and their abilities to communicate with others. It's a passive activity which detracts from spending time with your family, reading and doing creative things. How could providing such a service be in the public interest? It is just like saying that everyone is entitled to access to lots of cheap grease and salt, in other words, French fries."

"But you see honey, it's overpriced. The average cable bill for

The government wants to ensure that everyone gets access to cable services at a low price; it's in the public interest.

basic service is about \$20 per month," I said. Chloe said, "I just read that the average household watches TV about seven hours per day. That equals 210 hours per month. That means that cable service cost about 10 cents per hour of usage. Considering that in our house at least two people watch at the same time, cable costs about 5 cents per hour per person." She continued, "On average, I spend about 15 minutes in a McDonald's restaurant and spend about \$5 for a meal or a snack. I like the experience of the restaurant and the little toys you get with the Happy Meal. I guess it's more entertainment than anything else and it costs about \$20 per hour, 400 times the cost of watching cable television. Consequently, the price of French fries warrants regulation far more than cable services. Besides, if cable is so

overpriced, why do 60 percent of the people pay for it instead of getting free TV or renting videos?"

Then, Chloe asked, "When cable companies raise their prices do people stop buying cable service?" "No," I said. "Well then," Chloe said, "cable companies must really show some big profits." "No," I said. "Actually, most cable companies book a loss or very slim profits and their capital expenditures budgets per subscriber have doubled in the last three years."

"I understand that McDonald's shows terrific profits," Chloe said.

"Chloe, you have convinced me French fries are no different from cable television. You should write a letter to our congressman right away and demand that the price of McDonald's French fries be regulated. While you're at it, would you also explain that the prices of Ferraris have really gotten out-of-hand and that it's about time the government put a stop to that Ferrari monopoly?"

"Calm down, Dad. Do you remember how you explained how unsuccessful price controls were in Russia or in any other economy where they have been tried?"

(John Tupper is president of Kepper, Tupper & Fugatt Inc., a Connecticut-based investment banking firm.)

HALCYON DAYS

A solid reputation and good relationships with its bankers have assured these entrepreneurs of access to capital

Ed Drake and Bob Price are no strangers to cable. The Tulsa-based entrepreneurs have been operating cable systems in the mid-South longer than either cares to remember. Their last joint venture, known as Eagle Cable, was a successful limited partnership serving about 60 headends in Oklahoma and Texas. It was sold off at a time when, as Drake recalls, "Our cash flow models could no longer reasonably demonstrate any growth potential."

(The buyer, now-defunct Mission Cable, didn't agree with that assessment. They subsequently discovered the hard way that Drake's analysis was very sound.)

Drake and Price wisely laid back during the era of the "credit crunch" that engulfed cable in financial difficulties during the late 1980s and early 1990s. But in 1991, they saw an irresistible opportunity to acquire some small systems in northwest Arkansas. They formed Halcyon Communications Partners and obtained a \$2.35 million line of credit from Connecticut National Bank (now merged into Shawmut Bank). They also obtained equity from a major MSO, which Drake prefers not to identify.

Their own equity, that of their MSO partner and the debt contribution enabled them to establish the nucleus of what has

now become one of two small regional service areas that Halcyon operates.

Halcyon's ability to expand from the first Arkansas acquisition to a small MSO now approaching the 15,000-subscriber mark—in an era when capital is all but invisible to small operators—belies most conventional wisdom. The expansion, which now includes a group of systems in and around Ely, Nev., couldn't have been accomplished without the strong support of Halcyon's major lender, Boston-based State Street Bank & Trust Co.

Hiram Powell of Hardesty Puckett & Co., Halcyon's investment banker, didn't readily find State Street for Halcyon. "During the first few months of searching for debt capital, all I heard from various lenders was excuses," Powell says. He hadn't approached lending officer Pat Barber at State Street during these initial

credit committees did. (Connecticut National was out of the picture because of the Shawmut merger.) Following approximately four months of futile deliberations on Halcyon's behalf, Powell hooked up with State Street's Barber.

"I've dealt with a lot of lenders," says Powell, "but Pat is one of the most astute I have ever met. He really knows what questions to ask when he visits the properties." Price echoes that sentiment: "His questions made it clear that he knows more than a little bit about cable operations."

Barber has been active in cable lending for most of the eight years he has been with State Street. "We're not easily swayed by every headline we see in the *New York Times* or by all the press releases that we're privy to. We take all this in context," he says.

Often, banks that act more hesitantly toward cable commit themselves as part of a syndicate led by a major lender supporting a major operator. Barber says State Street doesn't subscribe to that approach. "We've been doing this for 15 years, so we think we know a little bit about cable. We don't want 5 percent of a half-billion-dollar transaction that someone else decided on. We think we have a lot to bring to the table on our own," he says.

That's at least one glimmer of hope for small operators like Halcyon, which now carries a \$4.5 million credit line from State Street.

In considering future support for Halcyon from State Street or whomever, Hardesty Puckett's Powell says they have an edge on many other small operators above and beyond their distinguished track record. What is it?

"They maintain monthly financials, which makes it very easy for their lenders to keep abreast of their progress," says Powell. Surprisingly, that's not always routine within small systems. But, says Price, "I have a shopkeeper's mentality. If I'm not minding the store, who else will?" **G**



Bob Price (left) and Ed Drake of Halcyon Communications Partners backed the tide, expanding from their first Arkansas acquisition to a small MSO with 15,000 subscribers in a time of tight money.

discussions because, as he recalls, "We were well down the road with so many banks that I assumed one would come through. After all, we're talking about people with superb track records and equity backing from a major MSO."

But apparently that wasn't adequate for the cable lenders that Powell had been talking with, not so much because lending officers evidenced skepticism, but because

BUSINESS

The Picture Looks Bright for Halcyon Communications

■ Tulsa-based Halcyon Communications has found success focusing on the smaller systems in the cable television industry.

By Bruce Curtis
World Staff Writer

Robert Price says he and his partner, Ed Drake, are trying to make "two and two equal five."

The two started Tulsa-based Halcyon Communications Inc. almost four years ago. The company seeks to consolidate struggling small cable television systems into one strong unit.

"There are a lot of 'ma and pa' systems still out there, even though the industry is consolidating," Price said.

"To put together some of these small systems into contiguous groups with some good management, decent marketing and internal control, we can make something out of it that the little guys couldn't."

Halcyon operates 11 cable systems in two states. It has not made a purchase in its native Oklahoma yet, but is studying opportunities here.

The company is the product of a long journey in the industry by the duo.

Price started in the cable business in the 1970s with a company called American Television and Communications. It now is part of Time Inc.

Drake started in a small town in Utah in 1957. The two joined forces in the mid-1980s, Price said.

"We decided that if we were going to make a buck for either of us, it was probably time to start something on our own."

In 1985, they founded Eagle Cable which built up to 30 systems in Oklahoma and 10 in Texas. Price said that the "money boys" entered the cable business that year and changed the industry. It also prompted the pair to make a move.

"We decided that our models wouldn't allow us to buy any more systems at that point. So, if we're not going to grow and not going to buy any, maybe we should be sellers."

They sold Eagle Cable in July 1989. Price said that by October no one could get a loan to buy a system because of real estate problems.

They re-entered the cable industry at the end of that year by buying some systems in northwest Arkansas. More purchases, including four Nevada systems, have brought Halcyon's holdings to 11.

Price noted that the big companies are looking at big markets, while he and Drake are trying to take 200- and 300-subscriber systems and put them together and have 10,000.

See Halcyon on G-2



From left, Halcyon Communications executives Edward Drake and Robert Price look over a map of some of their cable operations.

World staff photo
By Mel Root

Continued From G-1

"The larger guys aren't inclined to do that, but are ultimately inclined to say, 'Gee, 10,000, I could probably get interested in that,'" Price said.

Halcyon, meanwhile, is perfectly structured for its target market.

"We can make expansions more economically than a huge company can and serve the lesser-density areas outside small towns," Drake said.

One of the first things they do when they take over a system is raise the rates. Drake said most subscribers don't mind, however, since they get a cable service comparable to what is offered in larger cities.

Price said Halcyon can upgrade the systems at a lower cost than larger operators because he and Drake "buy Fords while they have to buy Cadillacs."

Halcyon, he explains, can integrate a used 36-channel amplifier into its rural systems while the bigger companies are upgrading to 50- to 60-channel amplifiers.

Drake said that Halcyon, when it combines some small operations into a larger one, cuts costs

by eliminating some equipment duplications.

In both Arkansas and Nevada, they are linking two or more communities by fiber optics and eliminating some receiving equipment in at least one of those communities.

Halcyon's standard upgrades include improving the system's video and audio quality and increasing its channel selection. Drake said the improvements often are something the previous owner couldn't afford to do or lacked the interest.

Price said another part of the company's ability to operate efficiently stems from an automated billing program he acquired which generates work orders, controls receivables and provides rudiments of marketing, such as an active street listing of subscribers. All of these business office functions are centralized in Tulsa.

In Arkansas, Halcyon operates systems from Fort Smith to around Fayetteville. It is looking at buying more systems in Benton and Washington counties in northwest Arkansas and also in middle eastern Oklahoma.